

**NEVADA DEPARTMENT OF  
CONSERVATION & NATURAL RESOURCES**

**STATE ENVIRONMENTAL COMMISSION**

**HEARING ARCHIVES FOR**

**REGULATORY PETITIONS**

**COMMISSION PETITION NO. 97010**

**LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-205-97**

**DOCUMENTS INCLUDED IN THIS FILE:**

**YES SECRETARY OF STATE FILING FORM**

**YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B**

**REGULATORY PETITIONS**

**ORIGINAL DRAFTED BY COMMISSION**

**ADOPTED BY COMMISSION**

**YES AS FILED AND CODIFIED BY LCB**

Secretary of State  
Filing Data

For Filing Administrative  
Regulations

For Emergency  
Regulations Only

Effective Date \_\_\_\_\_

Expiration Date \_\_\_\_\_

\_\_\_\_\_  
Governor's Signature

### State Environmental Commission

Classification [ ] Proposed [ ] Adopted By Agency [xx] Temporary [ ] Emergency [ ]

**Brief description of action:** **Petition 97010 (LCB R-205-97)** permanently amends NAC 445B.400 to NAC 445B.775 by adding a new section regarding the definition of restored vehicles and for provisions allowing restored vehicles to be exempt from the vehicle emission programs in Clark and Washoe county.

**Authority citation other than 233B:** NRS 445B.210 and 445B.760

**Notice date:** December 23, 1997, December 30, 1997, January 6, 1998

**Hearing date:** January 22, 1998

**Date of Adoption of Agency:** January 22, 1998

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
PETITION 97010 (LCB R-205-97)**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445B. This regulation deals with the exemption of classic cars from vehicle air emissions program requirements.

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

**Petition 97010 (LCB R-205-97)**, was noticed three (3) times: December 23, 1997, December 30, 1997 and January 6, 1998 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. The regulatory workshops were noticed on November 26, 1997 in the aforementioned newspapers. Regulatory workshops were held on October 17, 1997 in Las Vegas, and subsequent workshops were also held on December 2, 1997 in Reno and December 4, 1997 in Las Vegas. A total of 69 person attended the workshops. The public was also mailed the public notice through the Environmental Commission's mailing list. The Division of Environmental Protection also did a direct mailing to affected public agencies and businesses. At the hearing of January 22, 1998 of the Nevada Environmental Commission public written comments were received from the Nevada Car Owners Association (Exhibit # 3), the Specialty Equipment Market Association (Exhibit # 2). The Nevada Car Owner Association testified before the Commission in addition to two general members of the public. The comments focused on the need for a rolling date for exempt older cars from the vehicle emission inspection program. Those commenting also stated that they believe that new cars are the major cause of pollution from vehicles. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

**2. The number persons who:**

- |     |   |    |
|-----|---|----|
| (a) | Attended each hearing;                    | 38 |
| (b) | Testified at each hearing:                | 25 |
| (c) | Submitted to the agency written comments: | 8  |

**3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates and locations of workshops and notices. Comments from the Specialty Equipment Market Association (Exhibit # 2) were received. The Association was supportive of the new regulations, stating that emission test requirements is excessive in view of the number of vehicles and their operating characteristics. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

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**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulation was adopted by the State Environmental Commission with amendments at the January 22, 1998 hearing.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

There is no estimated adverse or beneficial economic effect upon business by this proposed regulation, either immediate or long term. The general public, those persons with vehicles subject to this provision, will receive an annual savings of approximately \$ 96,000. This is both an immediate and long term beneficial effect.

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

The annual cost to the regulatory agency, the Department of Motor Vehicles and Public Safety, is approximately \$ 100,000 for enforcement of this regulation. There will be no increased cost to the Division of Environmental Protection for enforcement of this regulation.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state regulations which NRS 445B.760 overlaps or duplicates.

**8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

This proposed regulation is not required by federal law, nor is it more stringent than a federal regulation.

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

There will be no additional fees, nor will there be an increase in fees associated with this regulation.

**END OF FILING STATEMENT FOR 97010 (LCB R-205-97)**

# ADOPTED REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

LCB File No. R205-97

EXPLANATION: Matter in **italics** is new. Matter in [ ] is material to be omitted.

AUTHORITY: §§ 2-9; NRS 445B.210 and 445B.760

**Section 1.** NAC 445B is hereby amended by adding a thereto the provisions set forth as sections 2 and 3 of this regulation.

**Sec. 2.** *The provisions of NAC 445B.575 to 445B.601, inclusive, do not apply to a motor vehicle that is certified as a restored vehicle by the department pursuant to section 3 of this regulation.*

**Sec. 3.** *The department may certify a motor vehicle as a restored vehicle if the motor vehicle:*

*1. Is licensed pursuant to NRS 482.381, 482.3812, 482.3814 or 482.3816;*

*2. Does not emit smoke;*

*3. Has an engine that complies with the standards for emissions set forth in NAC 445B.596 for the model year of the motor vehicle as determined by a two-speed emissions test conducted by the department pursuant to NRS 445B.798 or conducted at an authorized station or authorized inspection station; and*

*4. Has been certified upon each annual registration required pursuant to NRS 482.205 to have been driven not more than 2,500 miles since the immediately preceding annual registration, if any.*

**Sec. 4.** NAC 445B.401 is hereby amended to read as follows:

445B.401 As used in NAC 445B.400 to 445B.735, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445B.403 to 445B.455, inclusive, have the meanings ascribed to them in those sections.

**Sec. 5.** NAC 445B.463 is hereby amended to read as follows:

445B.463 1. Each of the following acts, omissions and conditions may constitute a ground for the denial of an application for a license to operate a test station or an authorized maintenance station or for the revocation or suspension of such a license:

(a) Failure of the applicant or licensee to have an established place of business in this state.

(b) Material misstatement on the application.

(c) Unfitness of the applicant or licensee, which includes, without limitation, a pattern of payment to the department with checks that are returned because of insufficient funds.

(d) The applicant's conviction of a felony in the State of Nevada or any other state, any territory of the United States, or in any other nation.

(e) The applicant's conviction for violating any provision of NAC 445B.400 to 445B.735, inclusive [.] ,

***and sections 2 and 3 of this regulation.***

(f) The applicant's conviction for violating any provisions of chapter 598 of NRS relating to deceptive trade practices.

(g) Refusing to allow an agent of the department to inspect, during normal business hours, all books, records and files of the test station or authorized maintenance station which are kept within this state. The department will treat the financial records and information obtained from an investigation as confidential and will reveal such records or information only to persons involved in the enforcement or administration of the regulations of the department, or as otherwise provided by law.

(h) Commission of any fraudulent act, including, without limitation:

(1) Misrepresentation of a material fact in any manner, whether intentional or grossly negligent; and

(2) An intentional failure to disclose a material fact.

(i) Willful failure to comply with any regulation of the department.

2. In addition to the acts, omissions and conditions set forth in subsection 1, any attempt to alter the readings obtained during a test of exhaust emissions or to modify or remove the data obtained by an exhaust gas analyzer may constitute a ground for the revocation or suspension of a license to operate a test station.

3. An applicant or licensee may not reapply for a license after its denial, revocation or suspension by the department:

(a) Until he has taken an action which removes the ground for denial, revocation or suspension of an application; or

(b) Within 1 year after the denial, revocation or suspension, whichever occurs first.

4. When the department determines that a licensee has engaged in conduct which is egregious or poses a serious risk to the public safety, the department may, in its discretion, permanently revoke the license of that licensee.

**Sec. 6.** NAC 445B.476 is hereby amended to read as follows:

445B.476 1. The failure of a licensee to comply with a directive of the director advising him of his noncompliance with any provision of NAC 445B.400 to 445B.735, inclusive, ***and sections 2 and 3 of this regulation***, within 10 days after his receipt of the directive is prima facie evidence of his willful failure to comply with the directive.

2. When the license of a test station or an authorized maintenance station has been suspended for cause, the suspension will be no longer than 90 days. Upon suspension, the license of the test station or authorized maintenance station must be surrendered to the department.

3. When the license of a test station or an authorized maintenance station has been revoked for any cause, except pursuant to NAC 445B.474, the principal officers of the test station or authorized maintenance station may not reapply for a license as a test station or an authorized maintenance station within 1 year after the date of the revocation. Upon revocation, the license of the test station or authorized maintenance station must be surrendered to the department.

**Sec. 7.** NAC 445B.489 is hereby amended to read as follows:

NAC 445B.489 1. He fails to establish by satisfactory evidence to the department that he is employed by a test station with an appropriate rating.

2. He has knowingly made any false statement or concealed any material fact on his application for a license.

3. He knowingly submits false, inaccurate or misleading information on a certificate of compliance or in other records submitted.

4. He fails to report in writing to the department every change in his place of employment or any termination of his employment within 10 days after the date of the change or termination.

5. He willfully or negligently issues a certificate of compliance which contains fraudulent information. The term "fraudulent" includes, but is not limited to, a back-dated document, a postdated document or a document based on anything other than actual physical inspection at the time of the issuance of the certificate of compliance.

6. He does not follow the procedures for testing prescribed by the department.

7. He allows a certificate of compliance to be completed by a person who is not an approved inspector.

8. He is incompetent to perform his duties.

9. He makes an inaccurate determination regarding a classification of a motor vehicle.

10. He fails to comply with any provision of NAC 445B.400 to 445B.735, inclusive [.] , **and sections 2 and 3 of this regulation.**

11. He changes his place of employment, is required to use an exhaust gas analyzer which is different from the type used at his previous place of employment and fails to provide to the department a certificate of competence issued by the manufacturer of the analyzer.

12. The department determines that an applicant or approved inspector is not lawfully entitled thereto.

13. He is convicted for violating the provisions of chapter 598 of NRS relating to deceptive trade practices.

14. He is unable to demonstrate proficiency in the verbal and written expression of the English language.

**Sec. 8.** NAC 445B.5039 is hereby amended to read as follows:

445B.5039 The department may deny the issuance of, suspend, or revoke ***the certificate of*** a certified repair **[technician's certificate]** ***technician*** if:

1. He fails to establish by satisfactory evidence to the department that he is employed by an authorized maintenance station.

2. He has knowingly made any false statement or concealed any material fact on his application for a certificate.

3. He knowingly submits false, inaccurate or misleading information to the department.

4. He fails to report in writing to the department every change in his place of employment or any termination of his employment within 10 days after the date of the change or termination.

5. He is incompetent to perform his duties.

6. He fails to comply with any provision of NAC 445B.400 to 445B.735, inclusive [.] , **and sections 2 and 3 of this regulation.**

7. The department determines that an applicant or certified repair technician is not lawfully entitled thereto.

8. He is convicted for violating the provisions of chapter 598 of NRS relating to deceptive trade practices.

9. He commits any fraudulent act, which includes, without limitation:

(a) Misrepresentation of a material fact in any manner, whether intentional or grossly negligent; and

(b) Intentional failure to disclose a material fact.

10. He willfully fails to comply with any regulation of the department.

11. He is unable to demonstrate proficiency in the verbal and written expression of the English language.

**Sec. 9.** NAC 445B.583 is hereby amended to read as follows:

445B.583 1. The primary use of the certificate of compliance or evidence of compliance is for the registration of a used motor vehicle as required by chapter 445B of NRS, requiring the submission of certificates of compliance or evidence of compliance with NAC 445B.400 to **[445B.727,] 445B.735**, inclusive, **and sections 2 and 3 of this regulation**, be the department upon application for registration by an owner of a used motor vehicle.

2. All certificates of compliance and any material or documents which are used by the station in its inspection program must be kept at the station.

End of LCB File No. R205.97